

## § 10.211

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qualifies for duty-free treatment under the ATPA.

(e) *Verification of documentation.* The documentation submitted under this section to demonstrate compliance with the requirements for duty-free treatment under the ATPA shall be subject to such verification as the port director deems necessary. In the event that the port director is prevented from obtaining the necessary verification, the port director may treat the entry as fully dutiable.

### Subpart D—Textile and Apparel Articles Under the African Growth and Opportunity Act

SOURCE: CBP Dec. 14–07, 79 FR 30392, May 27, 2014, unless otherwise noted.

#### § 10.211 Applicability.

Title I of Public Law 106–200 (114 Stat. 251), entitled the African Growth and Opportunity Act (AGOA), authorizes the President to extend certain trade benefits to designated countries in sub-Saharan Africa. Section 112 of the AGOA, codified at 19 U.S.C. 3721, provides for the preferential treatment of certain textile and apparel articles from beneficiary countries. The provisions of §§ 10.211–10.217 of this part set forth the legal requirements and procedures that apply for purposes of extending preferential treatment pursuant to section 112.

#### § 10.212 Definitions.

When used in §§ 10.211 through 10.217, the following terms have the meanings indicated:

(a) *Apparel articles.* “Apparel articles” means goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6504 and subheadings 6406.90.15 and 6505.00.02–6505.00.90, of the HTSUS;

(b) *Beneficiary country.* “Beneficiary country” means a country listed in section 107 of the AGOA (19 U.S.C. 3706) which has been the subject of a finding by the President or his designee, published in the FEDERAL REGISTER, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722) and which the President has designated as a beneficiary sub-Saharan African country under section

506A of the Trade Act of 1974 (19 U.S.C. 2466a). *See* U.S. Note 1, Subchapter XIX, Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS);

(c) *Cut in one or more beneficiary countries.* “Cut in one or more beneficiary countries” when used with reference to apparel articles means that all fabric components used in the assembly of the article were cut from fabric in one or more beneficiary countries, or were cut from fabric in the United States and used in a partial assembly operation in the United States prior to cutting of fabric and final assembly of the article in one or more beneficiary countries, or both;

(d) *Ethnic printed fabrics.* “Ethnic printed fabrics” means fabrics:

(1) Containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the HTSUS;

(2) Of the type that contains designs, symbols, and other characteristics of African prints:

(i) Normally produced for and sold on the indigenous African market; and

(ii) Normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

(3) Printed, including waxed, in one or more eligible beneficiary countries; and

(4) Formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary countries from yarn originating in either the United States or one or more beneficiary countries;

(e) *Foreign origin.* “Foreign origin” means, in the case of a finding or trimming of non-textile materials, that the finding or trimming is a product of a country other than the United States or a beneficiary country and, in the case of a finding, trimming, or interlining of textile materials, that the finding, trimming, or interlining does not meet all of the United States and beneficiary country or former beneficiary country production requirements for yarns, fabrics, and/or components specified under § 10.213(a) for the article in which it is incorporated;

(f) *Former beneficiary country.* “Former beneficiary country” means a country that, after being designated by

the President as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a), ceased to be designated as such a beneficiary sub-Saharan African country by reason of its entering into a free trade agreement with the United States;

(g) *HTSUS*. “HTSUS” means the Harmonized Tariff Schedule of the United States;

(h) *Knit-to-shape articles*. “Knit-to-shape,” when used with reference to sweaters or other apparel articles, means any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is “knit-to-shape;”

(i) *Knit-to-shape components*. “Knit-to-shape,” when used with reference to textile components, means components that are knitted or crocheted from a yarn directly to a specific shape, that is, the shape or form of the component as it is used in the apparel article, containing at least one self-start edge. Minor cutting or trimming will not affect the determination of whether a component is “knit-to-shape;”

(j) *Lesser developed beneficiary country*. “Lesser developed beneficiary country” means a country that is enumerated in U.S. Note 2(d), Subchapter XIX, Chapter 98, HTSUS and that is also enumerated in U.S. Note 1, Subchapter XIX, Chapter 98, HTSUS. See section 112(c)(3) of the AGOA (19 U.S.C. 3721(c)(3));

(k) *Major parts*. “Major parts” means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components;

(l) *NAFTA*. “NAFTA” means the North American Free Trade Agreement entered into by the United States, Canada, and Mexico on December 17, 1992;

(m) *Originating*. “Originating” means having the country of origin determined by application of the provisions of § 102.21 of this chapter;

(n) *Preferential treatment*. “Preferential treatment” means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States free of duty and free of any quantitative limitations, as provided in 19 U.S.C. 3721(a);

(o) *Self-start edge*. “Self-start edge,” when used with reference to knit-to-shape components, means a finished edge which is finished as the component comes off the knitting machine. Several components with finished edges may be linked by yarn or thread as they are produced from the knitting machine;

(p) *Sewing thread*. “Sewing thread” means thread designed and used for the assembly or hemming of textile or apparel components or articles;

(q) *Sewn or otherwise assembled in one or more beneficiary countries*. “Sewn or otherwise assembled in one or more beneficiary countries” when used in the context of a textile or apparel article has reference to a joining together of two or more components that occurred in one or more beneficiary countries, whether or not a prior joining operation was performed on the article or any of its components in the United States;

(r) *Wholly assembled in*. “Wholly assembled,” when used with reference to a textile or apparel article in the context of one or more beneficiary countries or one or more lesser developed beneficiary countries, means that all of the components of the textile or apparel article (including thread, decorative embellishments, buttons, zippers, or similar components) were joined together in one or more beneficiary countries or one or more lesser developed beneficiary countries;

(s) *Wholly formed fabrics*. “Wholly formed,” when used with reference to fabric(s), means that all of the production processes, starting with polymers, fibers, filaments, textile strips, yarns, twine, cordage, rope, or strips of fabric and ending with a fabric by a weaving, knitting, needling, tufting, felting, entangling or other process, took place in the United States or in one or more beneficiary countries or former beneficiary countries. For purposes of this definition, dyeing, printing and finishing operations are not production

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processes that involve fabric formation (see § 10.213(b)(1));

(t) *Wholly formed on seamless knitting machines.* “Wholly formed on seamless knitting machines,” when used to describe apparel articles, has reference to a process that created a knit-to-shape apparel article by feeding yarn(s) into a knitting machine to result in that article. When taken from the knitting machine, an apparel article created by this process either is in its final form or requires only minor cutting or trimming or the addition of minor components or parts such as patch pockets, appliques, capping, or elastic strip; and

(u) *Wholly formed yarns.* “Wholly formed,” when used with reference to yarns, means that all of the production processes, starting with the extrusion of filament, strip, film, or sheet and including drawing to fully orient a filament, slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a yarn or plied yarn, took place in a single country. For purposes of this definition, dyeing, printing and finishing operations are not production processes that involve yarn formation (see § 10.213(b)(1)).

### § 10.213 Articles eligible for preferential treatment.

(a) *General.* The preferential treatment referred to in § 10.211 applies to the following textile and apparel articles that are imported directly into the customs territory of the United States from a beneficiary country:

(1) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS;

(2) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, or

both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes in a beneficiary country;

(3) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with sewing thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classified under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States);

(4) Apparel articles wholly assembled in one or more beneficiary countries from fabric wholly formed in one or more beneficiary countries from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in one or more beneficiary countries), or from components knit-to-shape in one or more beneficiary countries from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both, or apparel articles wholly formed on seamless knitting machines in a beneficiary country from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1), (2) or (3) of this section (unless the apparel